

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 09/09/2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 6,742,183 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Allowable Subject Matter

2. Claims 23-46 and 55-60 are allowed.
3. The following is an examiner's statement of reasons for allowance:
4. The closest prior art (Hite, US Patent No 5,774,170) discloses a similar system. In Hite, advertisements which are relevant to a user are stored on local equipment. These locally stored advertisements are used to pre-empt default advertisements which are transmitted during commercial breaks of broadcast programming. The local equipment receives control information (CIDs) which it uses to determine whether or not to pre-empt the default advertisements using the locally stored advertisements (see col. 6 line 60 to col. 7 line 50). These locally-stored advertisements can be chosen to be displayed when relevant programming is broadcast (see col. 4 lines 33-39), or chosen not to be displayed when not appropriate to the programming currently being broadcast (see col. 4 lines 40 – 44).

Hite fails to disclose that the control information is used to **schedule** the advertisements, and that the advertisements are **unscheduled** when it is determined that they are for a network, channel or programming on a network or channel that is not received by said television viewer equipment. The American Heritage Dictionary defines “schedule” as: “to plan or appoint for a certain time or date.” (The American Heritage® Dictionary of the English Language, Fourth Edition). While Hite discloses advertisements which are stored in local equipment and meant to be displayed at a later time, and that these advertisements may not be displayed for certain reasons, they are not **scheduled** or **unscheduled**, since there is no time or order information related to them. Therefore the claims of the instant application are allowable over Hite.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT HANCE whose telephone number is (571)270-5319. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, John W. Miller can be reached on (571) 272-7353. The

fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

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Examiner
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